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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 KIM D. RICE,

11 Plaintiff,

12 v.

13 MICHAEL J. ASTRUE, Commissioner of
the Social Security Administration,

14 Defendant.
15

CASE NO. 11-cv-05926 RBL-JRC

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

16 This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28
17 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by Mathews,
18 Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on
19 defendant's stipulated motion to remand the matter to the Commissioner for further
20 consideration. (ECF No. 22.)

21 After reviewing defendant's stipulated motion and the relevant record, the undersigned
22 recommends that the Commissioner's decision be reversed and remanded pursuant to sentence
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1 four of 42 U.S.C. §405(g) to the Commissioner of Social Security for further administrative
2 proceedings before an Administrative Law Judge (“ALJ”).

3 On remand, an ALJ should hold a *de novo* hearing and plaintiff may raise any issue. The
4 ALJ should: (1) update the treatment evidence on plaintiff’s medical condition; (2) if warranted,
5 obtain evidence from a medical expert in order to clarify the nature and severity of plaintiff’s
6 impairments; (3) reevaluate the examining and non-examining medical source opinions from
7 Alvan Barber, M.D., and Eric Puestow, M.D., in addition to any other medical source opinions
8 submitted, and explain the reasons for the weight given to this opinion evidence; (4) further
9 consider plaintiff’s residual functional capacity on the updated record, citing specific evidence in
10 support of the assessed limitations; (5) continue the sequential evaluation process, obtaining
11 vocational expert testimony if warranted; (6) evaluate the effect, if any, of plaintiff’s subsequent
12 allowance of Title XVI benefits on the current application; however, the ALJ shall not disturb
13 the subsequent allowance by which plaintiff was found to be disabled as of November 3, 2011;
14 and (7) consider any new evidence submitted and issue a new decision.

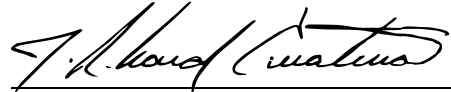
15 This Court further recommends that the ALJ take any other actions necessary to develop
16 the record. In addition, plaintiff should be allowed to submit additional evidence and arguments
17 to the ALJ on remand.

18 Plaintiff may be entitled to an award of reasonable attorney’s fees and costs pursuant to
19 the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and 42 U.S.C. § 406(b) following proper
20 presentation of a request for such an award to this Court.

21 Given the facts and the parties’ stipulation, the Court recommends that the District Judge
22 immediately approve this Report and Recommendation and **REVERSE** the Commissioner’s
23 decision pursuant to sentence four of 42 U.S.C. §405(g) with a **REMAND** of the case to the
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1 Commissioner for further proceedings. See Melkonyan v. Sullivan, 501 U.S. 89 (1991).

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3 Dated this 26th day of June, 2012.

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5 J. Richard Creatura
6 United States Magistrate Judge
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